



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2014-0813]

RIN 1625-AA00

Safety Zone; Navy UNDET, Outer Apra Harbor and adjacent waters, Guam

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

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SUMMARY: The Coast Guard proposes to establish safety zones for underwater detonation operations in the waters of outer Apra Harbor, Guam. This rule would be effective from 2 p.m. on November 5, 2014, until 4 p.m. on November 6, 2014 (kilo, Local Time). The enforcement period for this rule would be from 2 p.m. to 4 p.m. on November 5, 2014 and from 2 p.m. to 4 p.m. November 6, 2014. The Coast Guard believes this safety zone regulation is necessary to protect all persons and vessels that would otherwise transit or be within the affected area from possible safety hazards associated with an underwater detonation operation.

DATES: Comments and related material must be received by

the Coast Guard on or before [INSERT DATE 20 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Chief, Kristina Gauthier, Sector Guam, U.S. Coast Guard; (671) 355-4866,

Kristina.m.gauthier@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We

recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number USCG-2014-0813 in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number USCG-2014-0813 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management

Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

B. Regulatory History and Information

There have been two previous temporary final rules for safety zones around underwater detonations by the U.S. Navy at this location in the past year. Those rules were assigned docket numbers USCG-2014-0527 and USCG-2014-0356. We learned of the need for the safety zone regulation we are proposing on 26 August 2014. We have provided a 20-day comment period for this proposed rule. If after considering comments we decide to issue a temporary final rule, we would need to make that rule effective less than 30 days after publication and would cite to good cause for doing so under 5 U.S.C. 553(d)(3).

C. Basis and Purpose

The legal basis for this rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C 1231; 33 CFR 1.05-1, 6.04-6, 160.5; and Department of Homeland Security Delegation No. 0170.1. A safety zone is a water area, shore area, or water and shore area, for which access is limited to authorized person, vehicles, or vessels for safety purposes.

The purpose of this rulemaking is to protect mariners from the potential hazards associated with a U.S. Navy training exercise which include detonation of underwater explosives. Approaching too close to such exercises could potentially expose the mariner to flying debris or other hazardous conditions.

D. Discussion of Proposed Rule

In order to protect the public from the hazards of the U.S. Navy training exercise, the Coast Guard proposes to establish a temporary safety zone regulation, effective from 2 p.m. November 5, 2014, through 4 p.m. November 6, 2014 (Kilo, Local Time). The enforcement periods for this rule would be from 2 p.m. to 4 p.m. on November 5, 2014 and from 2 p.m. to 4 p.m. on November 6, 2014.

The safety zones would be located within the Guam COTP

Zone (See 33 CFR 3.70-15), and will cover all waters bounded by a circle with a 700-yard radius for vessels and a 1367 yard radius for persons in the water, centered at: 13° 27' 42"N and 144° 38'30"E, from the surface of the water to the ocean floor.

The general regulations governing safety zones contained in 33 CFR 165.23 apply. Entry into, transit through or anchoring within safety zones is prohibited unless authorized by the COTP or a designated representative thereof. Any Coast Guard commissioned, warrant, or petty officer, and any other COTP representative permitted by law, may enforce the zone. The COTP may waive any of the requirements of this rule for any person, vessel, or class of vessel upon finding that application of the safety zone regulation is unnecessary or impractical for the purpose of maritime safety. Vessels or persons violating this rule may be subject to the penalties set forth in 33 U.S.C. 1232 and/or 50 U.S.C. 192.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The Coast Guard expects the economic impact of this rule to be extremely minimal based on the short duration of the safety zone regulation and the limited geographic area affected by it.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This safety zone regulation will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit through a portion of the zones from 2 p.m. through 4 p.m. on November 5 and 6, 2014. This rule would be enforced for only 2 hours each day and vessel traffic can pass safely around the safety zones. The safety zones do not encompass the entire harbor and safe transit is still allowed to pass through, in and out of Apra Harbor. Further traffic will be allowed to pass through the zones with the permission of the Coast Guard Patrol Commander 671-487-4817. Before the effective period, we will issue maritime advisories widely available to users of outer Apra Harbor.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we

want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

5. Federalism

A rule has implications for federalism under Executive

Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure,

we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination

with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human

environment. This proposed rule involves a closed area of Outer Apra Harbor, to vessel traffic, for 2 hours on each of 2 days. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record-keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165-REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T14-0813 to read as follows:

§ 165.T14-0813 Safety Zones; Outer Apra Harbor and adjacent waters, Guam.

(a) Location. The following areas, within the Guam Captain of the Port (COTP) Zone (See 33 CFR 3.70-15), from the surface of the water to the ocean floor, are safety zones:

(1) Seven-hundred-yard-radius zone. All waters bounded by a circle with a 700-yard radius centered at 13° 27' 42"N and 144° 38' 30"E, (NAD 1983) are included.

(2) One-thousand-three-hundred-and-sixty-seven-yard-radius zone. All waters bounded by a circle with a 1367-yard radius centered at 13° 27' 42"N and 144° 38' 30"E, (NAD 1983) are included.

(b) Effective period. This section is effective from 2 p.m. on November 5, 2014 through 4 p.m. on November 6, 2014 (Kilo, Local Time).

(c) Enforcement periods. The safety zones described in paragraph (a) of this section will be enforced during the U.S. Navy underwater detonation operation, from 2 p.m. until 4 p.m. on November 5, 2014, and 2 p.m. to 4 p.m. on November 6, 2014 (Kilo, Local Time).

(d) Regulations. The general regulations governing

safety zones contained in 33 CFR 165.23 apply. No vessels may enter or transit safety zone (a)(1) and no persons in the water may enter or transit safety zone (a)(2) unless authorized by the COTP or a designated representative thereof.

(e) Enforcement. Any Coast Guard commissioned, warrant, or petty officer, and any other COTP representative permitted by law, may enforce these temporary safety zones.

(f) Waiver. The COTP may waive any of the requirements of this section for any person, vessel, or class of vessel upon finding that application of the safety zone is unnecessary or impractical for the purpose of maritime security.

(g) Penalties. Vessels or persons violating this rule are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: September 7, 2014

Brenden J. Kettner,
Commander, U.S. Coast Guard,
Captain of the Port Guam, Acting.

[FR Doc. 2014-23163 Filed 09/30/2014 at 8:45 am;

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